

REMARKS

Claims 22-28 are withdrawn. Claims 1-21 are pending. Claims 1, 8, 10, 16, 17, and 18 have been amended to more clearly claim embodiments of the invention as Applicant is entitled to. No new matter has been added as a result of these amendments.

RESPONSE TO RESTRICTION REQUIREMENT

The instant Office Action states that "Inventions Group I and Group II are related as sub-combinations disclosed as usable together in a single combination. The sub-combinations are distinct from each other if they are shown to be separably usable. In the instant case, invention portable computing device has separate utility such as a transportable computing device. See MPEP 806.05(d). Because these inventions are distinct for reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper."

Applicant elects without traverse Group 1, recited in Claims 1-21.

CLAIM REJECTIONS

35 U.S.C. §103

Claims 1-21 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 6,334,118 B1 (hereinafter "Benson") in view of U.S. Pat. No. 6,760,441 B1 (hereinafter "Ellison"). The rejection is respectfully traversed. It is respectfully submitted that Claims 1-21 are neither taught nor suggested by Benson or Ellison, alone or in combination.

Currently amended independent Claim 1 recites:

A method of ensuring the security of a computer system, comprising:

loading software on said computer system;

validating said software by the use of a validator program;

marking said software as valid or invalid by the use of a digital signature flag; and,

denying said software the ability to access said computer system if said validator fails to identify said software as valid in order to ensure the security of said computer system.

Claim 1 recites that “validating said software ... denying said software the ability to access said computer system if said validator fails to identify said software as valid in order to ensure the security of said computer system.” The cited reference fails to teach or suggest the claimed limitation “validating said software ... denying said software the ability to access said computer system if said validator fails to identify said software as valid in order to ensure the security of said computer system.”

For example, assuming for the sake of argument that Benson’s “rented program” is analogous to the “software” recited by Claim 1, Benson would need to teach validating the “rented program” using a validator program ... in order to ensure the security of the computer system. However instead, Benson teaches denying access to the “rented program” to ensure that users who rent the “rented program” are not allowed to use the “rented program” without paying for that use at Col. 1, lines 11-27 among other places. Further, Benson teaches preventing the modification of an audit trail that documents the use of the “rented program,” at col. 4, lines 19-24 among other places, rather than “...ensuring the security of said computer system,” as Claim 1 recites. Therefore, it is respectfully submitted, that Benson teaches nothing about ensuring the security of a computer system that the “rented program” could potentially be loaded onto.

Thus, Benson does not teach or suggestion “validating said software ... denying said software the ability to access said computer system if said validator fails to identify said software as valid in order to ensure the security of said computer system,” as Claim 1 recites. For the foregoing rationale, the limitations of Claim 1 are neither taught nor suggested by Benson. As such, allowance of Claim 1 is respectfully solicited.

Amended independent Claims 8 and 18 distinguish over Benson for similar reasons that Claim 1 should be allowable in that Claims 8 and 18 recite “validating said software ... denying said software the ability to access said computer system if said validator fails to identify said software as valid in order to ensure the security of said computer system,” which is neither taught nor

suggested by Benson as already discussed herein. As such, allowance of independent Claims 8 and 18 is respectfully solicited.

The rejection does not indicate that Ellison teaches or suggests "validating said software ... denying said software the ability to access said computer system if said validator fails to identify said software as valid in order to ensure the security of said computer system," as recited by Claims 1, 8 and 18. Applicant respectfully agrees with the rejection that Ellison does not teach or suggest "validating said software ... denying said software the ability to access said computer system if said validator fails to identify said software as valid in order to ensure the security of said computer system," as recited by Claims 1, 8, and 18.

Further, the cited combination also fails to teach or suggest the limitations of Claims 1, 8, and 18 because Ellison fails to remedy the deficiencies in Benson in that Ellison fails to teach or suggest the limitation, "validating said software ... denying said software the ability to access said computer system if said validator fails to identify said software as valid in order to ensure the security of said computer system," as recited by Claims 1, 8, and 18. For the foregoing rationale, the limitations of Claims 1, 8, and 18 are neither taught nor suggested by Benson or Ellison, alone or in combination.

In addition, claims that depend on Claims 1, 8, or 18 recite limitations which separately make the dependent claims patentable. For example, Claim 2 recites, "the method described in Claim 1 wherein said software is supplied by a third-party source," and Claim 6 recites, "the method described in Claim 1 wherein said validator program is specially constructed to reside in a secure fashion in said computer system." Benson does not teach or suggestion such these claim limitations.

Claims 2-7 depend on Claim 1, which is believed to be allowable for the foregoing rationale. As such, it is respectfully asserted that the rejections of Claims 2-7 have been overcome and their allowance is earnestly solicited. Claims 9-17 depend on Claim 8, which is believed to be allowable for the foregoing rationale. As such, it is respectfully asserted that the rejections of Claims 9-17 have been overcome and their allowance is earnestly solicited. Claims 19-21

depend on Claim 18, which is believed to be allowable for the foregoing rationale. As such, it is respectfully asserted that the rejections of Claims 19-21 have been overcome and their allowance is earnestly solicited.

CONCLUSION

In light of the above listed amendments and remarks, reconsideration of the rejected Claims is requested. Based on the amendments and arguments presented above, it is respectfully submitted that Claims 1-21 overcome the rejections of record. Therefore, allowance of Claims 1-21 is earnestly solicited.

Should the Examiner have a question regarding the instant response, the Applicant invites the Examiner to contact the Applicant's undersigned representative at the below listed telephone number.

Respectfully submitted,
WAGNER, MURABITO & HAO LLP

Dated: Dec 16, 2004

Cheryl A. Eichstaedt
Cheryl A. Eichstaedt
Registration No. 50, 761

Address: WAGNER, MURABITO & HAO LLP
Two North Market Street
Third Floor
San Jose, California 95113
Telephone: (408) 938-9060 Voice
(408) 938-9069 Facsimile